HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.W.P.No.433 of 2007
Date of decision : 3.5.2007

Jaspreet Singh **.....Petitioner**

versus

Punjab Technical University and others **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present: Mr.Sameer Sachdeva, Advocate for the petitioner.
Mr.Amrit Pal, Advocate for respondent No.1.
Mr.D.S. Brar, Advocate for respondent No.2.

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JUDGMENT

HEMANT GUPTA, J. (Oral)

The petitioner has sought a writ of mandamus directing respondent Nos.1 & 2 to allow the petitioner to pursue his studies and appear in the remaining two papers of 7th Semester of Bachelor of Engineering Course. Petitioner has also prayed for quashing of the order dated 14.6.2006 expelling the petitioner from the College.

The said claim arises out of the fact that the petitioner was admitted in Bachelor of Engineering Course at respondent No.2 College on the basis of competitive entrance examination held in the year 2003. On 8.6.2006, during the course of examination for the 6th Semester, the petitioner was asked by the Flying Squad to remove his sunglasses which he was supporting while appearing in the examination. Subsequently, on account of various allegations of omission and commission, an order of

expulsion of the petitioner has been passed on 14.6.2006. It is the said order which is also subject matter of challenge in the present writ petition.

It may be noted that earlier the petitioner filed a complaint before the District Consumer Forum at Muktsar wherein a prayer was made for permitting the petitioner to attend the college and to sit in 7th Semester. The Forum permitted the petitioner to appear in the examination vide order dated 14.12.2006. In pursuance of the said order, the petitioner appeared in the examination of the 6th Semester before the order passed by the District Forum was set-aside by the Punjab State Consumer Commission at Chandigarh vide order dated 3.1.2007. Thereafter, the petitioner sought permission of this Court to appear in the remaining papers, by filing the present writ petition and vide order dated 12.1.2007, this Court permitted the petitioner to appear in theory and practical examination provisionally. By that time, paper of only one examination was left.

An objection was raised by the respondents that the present petition cannot be permitted to continue in view of the fact that the petitioner has also invoked the jurisdiction of the District Consumer Forum and the petition of the petitioner before the District Consumer Forum is pending consideration. An affidavit has been filed by the petitioner on 1.5.2007 to the effect that he has withdrawn the aforesaid complaint filed before the District Consumer Forum. Therefore, the said objection no longer survives.

The primary grievance of the petitioner revolves around the order Annexure P-12 dated 14.6.2006 whereby the petitioner has been

ordered to be expelled for his past disciplinary and education records. The entry of the petitioner into the college was strictly banned.

Learned counsel for the petitioner has vehemently argued that the said order of expulsion has been passed against the petitioner without giving any show cause notice or opportunity of hearing or after complying with the principles of natural justice. Therefore, the order of expulsion passed by the respondents is wholly unjustified.

In reply on behalf of respondent Nos.2 & 3, it has been pointed out that the petitioner had entered into fight with other students in November, 2004 and February, 2005. It has also been pointed out that petitioner has not passed out in all the subjects in which he has appeared in the examination. It has been also pointed out that on 8.6.2006, the petitioner argued rudely with the Invigilator and created disturbance in the examination hall and later on he argued with the Superintendent, Examination Centre and misbehaved with the Flying Squad. On 8.6.2006, when the examination was in progress, the petitioner left the examination hall while giving the blank answer sheet, misbehaved and threatened the Incharge Flying Squad. On 9.6.2006, the petitioner was suspended by the Officiating Principal and on 12.6.2006, the inquiry report was submitted and subsequently, the expulsion order was passed. It has been mentioned in the written statement that the petitioner was associated in the inquiry and the statement of the petitioner was produced as Annexure R-2/12. It has been stated that the student is known to be a trouble creator.

The writ petition came up for hearing before this Court on 2.5.2007 wherein the learned counsel representing respondent Nos.2 & 3

stated that an inquiry was conducted and the petitioner has participated in the said inquiry. In view of the averments made in the written statement and the statement made before this Court, the respondent-College was directed to produce the inquiry file. The records have been produced in the Court today.

A perusal of the record shows that a joint communication dated 8.6.2006 of Shri Pardeep Jindal, Centre Superintendent, Shri Navdeep Goel, Member Flying Squad and Dr.J.S.Bhullar, Incharge Flying Squad, of misbehaviour of the petitioner and damage to the vehicle of the Flying Squad was made. Another communication dated 8.6.2006 was addressed by Ms.Simarjit Kaur, Invigilator, alleging the misbehaviour and misconduct of the petitioner. The Principal ordered an inquiry to investigate the matter on 9.6.2006 by Sh.Gurbhinder Singh Brar. The said Inquiry Officer has recorded the statement of certain staff members, but the petitioner was not given any opportunity to cross examine such witnesses produced before the Inquiry Officer. No show cause notice was given to the petitioner to appear and associate himself in the Inquiry proceedings. No doubt, the communication dated 13.6.2006 on behalf of the petitioner is available on record, but it cannot be made out that such communication is addressed to whom. The report has been submitted by such Inquiry Officer on 13.6.2006. On 13.6.2006, the Principal of the College perused the statement and findings given by the Inquiry Officer in his report and sought clarifications. Thereafter, the statement of Ms.Simarjit Kaur and Gurbhinder Singh Brar was recorded by way of clarification and on the basis of such clarification, a report has

been prepared by the Principal of the College on 14.6.2006.

The narration of facts and record shows that no show cause notice was given to the petitioner pointing out the specific allegations of misconduct. The petitioner was not associated in the inquiry or in the process of clarifications. It is, thus, apparent that principle of natural justice has been violated completely.

Consequently, the present writ petition is allowed. The order dated 14.6.2007, Annexure P-12, is set-aside. Since the order of expulsion has been set-aside, the respondents shall take consequential steps, as may be required under the law.

(HEMANT GUPTA)
JUDGE

May 3, 2007
**mohinder*